

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 766 OF 2018

DISTRICT : SOLAPUR

Shri H.G Pandhare)
Occ : Nil, R/o Jeur,)
Tal – Karmala, Dist-Solapur.)...**Applicant**

Versus

1. The District Superintendent of Police,)
Kolhapur, having office at)
Kasba Bawda, Kolhapur.)
2. The State of Maharashtra,)
Through Principal Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)...**Respondents**

Shri Priyanshu Mishra, holding for Shri M.V Thorat, learned advocate for the Applicant.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar (Chairperson)
Mrs Medha Gadgil (Member) (A)**

DATE : 12.07.2022

PER : Justice Mridula Bhatkar (Chairperson)

J U D G M E N T

1. The applicant prays to stay the implementation of the impugned order dated 8.6.2018 passed by the Respondent no. 1, under which he informed the applicant that the Respondent no. 2 has decided not to interfere in the decision of the Respondent no. 1 as to the cancellation of the selection of the applicant to the post of Police Constable.

2. The applicant has applied for the post of Police Constable in the office of Superintendent of Police, Kolhapur, pursuant to the advertisement issued in the year 2008. He cleared the said examination. However, when he filled the Attestation Form on 1.12.2008, he did not mention about the pendency of the criminal case in the Court of Learned Judicial Magistrate, First Class, Karmala, Dist-Solapur. The Magistrate acquitted the applicant on 11.12.2008 as the matter was compounded. When the applicant was called to submit Character Certificate, he has suppressed the fact of pendency of the criminal case in the Attestation Form. Therefore, his case was rejected. The applicant made representation on 6.4.2009 to Respondent no. 2, with a request to recall the order of Respondent no. 1 dated 24.2.2009, cancelling his selection. The Respondent no. 2, passed order on 15.6.2010, rejecting the appeal of the applicant and maintained the earlier order. It was necessary for the applicant to approach this Tribunal immediately thereafter. However, he did not move this Tribunal. The applicant approached the M.L.A on 13.7.2012 and thereafter again on 28.1.2015 he approached the M.L.A, who wrote letter to the Hon'ble Minister of State for Home. The Hon'ble Minister of State for Home directed the Respondents to consider the case of the applicant. So Respondent no. 1, requested the District Collector, Kolhapur to consider afresh the case of the applicant

and review the decision of cancellation of the selection of the applicant. Accordingly the District Collector, submitted his report to the Respondent no. 1 on 3.10.2016 on the basis of G.R dated 26.8.2014 and declared the applicant fit for appointment. However, the Respondent no. 2, rejected the said decision. Thereafter the impugned order dated 8.6.2018 was passed by Respondent no. 1, rejecting the claim of the applicant for appointment to the post of Police Constable.

3. Learned counsel for the applicant submitted that the G.R dated 26.8.2014 is squarely applicable to him wherein a lenient view is to be taken while scrutinizing the application based on the pendency and the nature of offence. Learned counsel for the applicant submitted that even suppression of facts when no offence was pending should not come in the way of the appointment of the applicant.

4. Learned counsel for the applicant relied on the following judgments of the Hon'ble Supreme Court:-

- (a) **PAWAN KUMAR Vs. UNION OF INDIA & ANR, in Civil Appeal No 3574/2022 arising out S.L.P (Civil) No. 6009/2016.**
- (b) **COMMISSIONER OF POLICE & ORS Vs. SANDEEP KUMAR, Civil Appeal No (s) 1430 of 2007.**
- (c) **AVTAR SINGH Vs. UNION OF INDIA & ORS, S.L.P (C) No. 20525/2011.**

5. In the case of **PAWAN KUMAR**, the appointment was to the post of Police Constable in the Railway Protection Force, which came to be published on 27th February, 2011. The appellant was selected and sent for training. While the appellant was undergoing the training, he came to be discharged by order dated 24.4.2015

on the ground that a criminal case under Section 148, 149, 323, 506 and 356 of I.P.C was registered against him. It was a false case registered against him and the appellant was honorably acquitted by the Competent Court on 12th August, 2011. He did not disclose about the prosecution when he filled the Attestation Form on 27.5.2014. It appears that before filling the Attestation Form the appellant was selected and he has cleared the physical examination. The Hon'ble Supreme Court has allowed the appeal. It is mentioned that the employer to consider all the relevant facts and circumstances available as to the antecedents keeping in view the objective criteria and relevant service rules into consideration. Mere suppression of material/ false information does not mean that employer can arbitrarily discharge or terminate the employee from service. Therefore, learned counsel submitted that the applicant should be given the appointment to the post of Police Constable,

6. In the case of **AVTAR SINGH** (supra), the Hon'ble Supreme Court considered various cases on the point of suppression of information while applying for the post in Civil Service. The Hon'ble Supreme Court gave directions and one of which is if the case is trivial in nature in which conviction has been recorded, then the Court has to consider even it would have been disclosed it would not have rendered an incumbent unfit for the post in question. Then the Government in its discretion ignores such suppression by condoning the lapse.

7. In the case of **SANDEEP KUMAR** (supra), wherein it is also mentioned that lenient view is to be taken when there is suppression of the offence which is not serious.

8. In the present case, we would have given the benefit of the ratio laid down by the Hon'ble Supreme Court in the case of **PAWAN KUMAR (supra)**, however, the applicant's case cannot be considered mainly on the ground of delay and laches. The applicant ought to have challenged the order in appeal dated 15.6.2010 before this Tribunal. But he approached this Tribunal on 20.8.2018, i.e. eight years thereafter. The representations made to Respondent nos 1 and 2 or the order passed by the Hon'ble Minister to consider the case of the applicant, cannot extend the cause of action beyond limitation. Moreover, the recommendation made by the Hon'ble Minister is also subject to the rule as the rule of law prevails. Ultimately, the Respondent no. 1 has rightly rejected the claim of the applicant.

9. The benefits of all these judgments cannot be given to the applicant mainly on the ground of delay and laches. The Respondents rejected his candidature on 24.2.2009 cancelling his selection on the ground of suppression of information. Admittedly, he made representation on 6.4.2009 and then Respondent no. 2 has passed order on 15.6.2010 rejecting the appeal of the applicant and maintained the earlier order of cancellation of his selection. The applicant should have approached the Tribunal immediately. But he went on pursuing the matter before the Secretary and thereafter at the Ministerial level. Thus after eight years he has filed this Original Application. If you go on filing representations after representations to different authorities for 6 to 7 years, then the respective authorities will reply subsequently. However this will not curtail the delay or laches. Ultimately, the applicant cannot get the order in his favour as it becomes very difficult due to influx of time to redress the grievance.

9. Under these circumstances, we find no merit in the Original Application and the same is hereby dismissed.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 12.07.2022
Dictation taken by : A.K. Nair.

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